

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

JAMES F. HURT,

Plaintiff,

v.

MICHIGAN CITY HOUSING
AUTHORITY,

Defendant.

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CAUSE NO. 3:04-CV-745 RM

REPORT AND RECOMMENDATION

Plaintiff, proceeding *pro se*, initially filed this claim on December 3, 2004, alleging age and disability discrimination in violation of the Age Discrimination in Employment Act (ADEA), 29 U.S.C. § 621 *et seq.* and the Americans with Disabilities Act, 42 U.S.C. § 12101. On January 27, 2005, this Court issued an order for written status reports, requesting that parties submit individual status reports by February 21, 2005, so that this Court could issue a scheduling order pursuant to its obligation under Fed. R. Civ. P. 16(b). Plaintiff failed to respond to this order, and on March 10, 2005, this Court issued an order directing Plaintiff to show cause why his case should not be dismissed for his failure to prosecute his claim and comply with the Court's January 27, 2005 order. Plaintiff was ordered to file a response by April 1, 2005, and was warned, pursuant to Timms v. Frank, 953 F.2d 281, 285-286 (7th Cir. 1992) and Lewis v. Faulkner, 689 F.2d 100 (7th Cir. 1982), that failure to obey this Court's order would result in a dismissal of his case.

Under Fed. R. Civ. P. 41, a plaintiff's case may be dismissed for his failure to prosecute his claim or to comply with court orders. Plaintiff has failed to comply with two court orders, and has provided no written documentation explaining his inaction. Therefore, because Plaintiff

has failed to prosecute his case and has violated two court orders, this Court **RECOMMENDS** that Plaintiff's case be **DISMISSED WITHOUT PREJUDICE**.

NOTICE IS HEREBY GIVEN that within ten (10) days after being served with a copy of this recommended disposition a party may serve and file specific, written objections to the proposed findings and/or recommendations. Fed.R.Civ.P. 72(b). FAILURE TO FILE OBJECTIONS WITHIN THE SPECIFIED TIME WAIVES THE RIGHT TO APPEAL THE DISTRICT COURT'S ORDER.

SO ORDERED.

Dated this 13th Day of April, 2005.

s/Christopher A. Nuechterlein

Christopher A. Nuechterlein
United States Magistrate Judge

cc: Hurt